

**Draft Business Roundtable Meeting Notes**  
**May 29, 2003**

Meeting Attendees:

T. Aubee, J. Boehnert, K. Camp, M. Conway, P. Dowling, G. Ezovski, V. Harritos, R. Hittinger, H. Huppest, B. Lesinski, P. Lombardi, D. Moon, I. Runge, A. Willoughby,

D. Albro, E. Beck, R. Gagnon, T. Getz, A. Good, T. Gray, J. Keller, S. Majkut, G. McAvoy, J. Reitsma, E. Stone

**II. Old Business**

**A. Review of February Meeting Notes**

There were no comments on the draft minutes and they were accepted as written.

**B. Legislative Update**

**Renewable Portfolio Standards**

The Director indicated one outstanding issue with this proposal is whether to move forward with a 15% or 20% goal for deriving electricity from renewable sources. He mentioned the administration has not yet finalized its decision on this issue, therefore, DEM has not taken a formal position on the bills pending before the General Assembly this year. He said the Department has been vocal about the environmental benefits of renewable energy.

Narragansett Electric was supportive of the concept of renewable energy, but not the mandatory standards set forth in the bill. The Director also mentioned the fee collected to support renewable energy projects was being redirected into the general fund and will have a negative impact on new renewable energy projects

Gary Ezovski indicated he was supportive of the process, but the 15% requirement had a smaller economic impact on the state. He thought it would be wise to adopt the lower standard and review the situation in ten years. He thought the cost of doing business in Rhode Island was high to begin with, and he could not advocate measures that would increase business' costs.

**Mercury Legislation**

. There were ongoing efforts to repeal the 2001 Mercury Reduction and Education Act , or at least to delay implementation of many provisions of the bill until other states pass identical or similar legislation. The director mentioned that the regulations called for under the 2001 statute were developed with an open stakeholder process and included a significant amount of input from impacted industries. He encouraged industry to accept the regional approach to regulation because this is an efficient use of resources from the perspective of both industry and government.

**C. Budget Update**

The director provided the group with a frank overview of the DEM budget. The situation does not look good. He said the department has 550 funded positions, however we are required to keep between 35-40 positions vacant to prevent us from overspending our budget. In effect the department has lost the use of these positions for the year. We have tried to prioritize the vacant positions, but we are being told we can not fill the positions. He feels the agency is at a breaking point in some programs. We are losing younger staff and he is concerned that the

department will not be able to perform its mandated responsibilities. He thought the existing staffing levels would lead to permitting backlogs, enforcement gaps, and reductions in the amount of TMDL work that will be completed. DEM is trying to be creative to meet this lack of personnel. He has requested the Bureaus to evaluate programs to determine if an Environmental Results Program (ERP) could be used. In this approach businesses certify compliance with DEM regulations. He indicated that all programs have been evaluated and about half could use the ERP approach. Unfortunately it takes an investment in time to develop this approach, and this is difficult to accomplish when resources are stretched.

Gary Ezovski supported the evaluation of the tanks program and he thought the approach would work. He mentioned he liked the criteria on who could perform the audit.

Gary Ezovski questioned if there were changes anticipated in personnel rules that would add flexibility to move personnel around to fill in program gaps because of vacancies. The director responded that we are bound by the existing contract and there is little flexibility to do this.

### **III. New Business**

#### **A. Air Toxics Regulation Update**

Steve Majkut said DEM held a series of stakeholder meetings to review revisions to the Rhode Island Air Toxics Regulations. The stakeholder process was started because the proposal regulated another 250 substances. This group met every three weeks beginning February and completed its work on April 24, 2003. Some of the issues that were agreed to include the following:

- Regulatory requirements had been triggered by the amount of toxic material *used* at a facility. DEM agreed to allow actual emissions of the material to also be used to determine regulatory requirements.
- The fuel burning exemption was clarified to exempt sources that burn natural gas.
- The procedures for developing the Ambient Air Levels was reviewed and modified where appropriate.

The regulation will be revised based on the discussions of the working group. DEM will notice a hearing in June for hearing in July.

A participant questioned the threshold for the exemption of the sources that burn natural gas. Steve indicated that major sources, that is facilities that have the potential to emit greater than 100 tons of emissions would not be exempt. He mentioned there were less than a dozen of these sources. The director questioned Steve about the recording requirements and wanted to make sure we were consistent with other programs in DEM.

Gary Ezovski expressed his appreciation for the process and thought it went well. John Boehnert also agreed the process worked.

## **B. Waste Oil Regulation Revisions**

Dean Albro said the proposed rule revision is intended to provide businesses that generate used (or waste) oil an alternative method that is less restrictive than managing it as hazardous waste. Some of the key differences between the two regulatory systems are as follows:

- ♦ Generators are not required to register with DEM.
- ♦ Generators may store up to ten 55-gallon drums without a time limit.
- ♦ Generators must ship excess drums (greater than 10) offsite within 180 days of accumulation.
- ♦ Generators are not required to provide hazardous waste management training to employees.
- ♦ Generators are not required to develop a hazardous waste contingency plan.
- ♦ Generators are allowed to burn specification and off-specification used oil onsite as an alternative fuel in burners with greater than 500,000 BTU capacity or to send offsite for burning as an alternative fuel.
- ♦ Generators are allowed to self-transport up to 55 gallons of used oil, per shipment, to used oil burning or processing facilities.
- ♦ Generators are not required to ship used oil on a hazardous waste manifest and so not required to pay a hazardous waste generator fee.
- ♦ Used Oil Temporary Storage Facilities may store used oil onsite for up to 35 days after obtaining approval from DEM.
- ♦ Used Oil Burning Facility may burn specification used oil onsite after notifying DEM for burners less than 1,000,000 BTUs or after obtaining a permit from DEM for burners greater than 1,000,000 BTUs.

Dean is currently reviewing the regulation changes internally. When this internal process is completed, he would like to form a stakeholder group to discuss the revisions. The results of the stakeholder process would then be forwarded to EPA for comment. It is his goal to finish this process by the end of the year and have the regulatory hearing in early 2004.

## **C. Generator Regulations Revisions**

Dean Albro briefed the group on proposed changes to the Hazardous Waste Management regulations regarding generators. He said the existing regulations are not clearly written. The state regulations refer to the federal hazardous waste regulations. The generator would then have to flip between the state and federal regulations to determine compliance with State regulations. His intention is to combine the regulations into one document.

He said sections would be expanded to contain all of the applicable requirements for waste storage, contingency plans, personnel training, container and tank management standards, and spill control equipment and prevention.

The proposal will help resolve situations when a generator abandons a facility and leaves hazardous waste on the site. The rules will be clarified to ensure that new owners taking over the facility where hazardous waste has been abandoned understand that they are responsible for managing this hazardous waste properly. Often new owners are ignoring the hazardous waste and allowing the waste to remain stored on site. This represents a threat to employees and the public in the event of a release or mismanagement of the waste.

In addition, OC&I wants to streamline the process of issuing Temporary ID Numbers. DEM now responds to about 800 requests a year for temporary ID's from transporters who wish to transport waste from facilities that typically do not generate hazardous waste. The transporters typically arrive at a facility and request that DEM immediately issue a temporary ID number. OC&I works hard to provide the numbers, but staffing may not always be available to respond to these requests. OC&I is looking at ways to have the transporter be responsible for providing the numbers and leave DEM out of the loop.

Dean is considering a stakeholder process to discuss this issue. Depending on staffing commitments and workloads, he would like to make these changes this year.

#### **D. RIPDES Update**

##### **Stormwater Discharge Associated with Industrial Activities**

Eric Beck indicated DEM is proposing to reissue a draft General Permit to cover storm water discharges associated with industrial activity. The draft permit will be effective for a one-year period during which the program will determine if any significant modifications to the permit are appropriate. A facility must fill out a Notice of Intent to apply for coverage under this permit once it is finalized.

##### **Stormwater Phase II**

Polluted storm water runoff from construction sites often enters municipal separate storm sewer systems and ultimately is discharged into local rivers and streams. The program affects construction activities that result in a land disturbance of greater than or equal to one (1) acre. The process will be streamlined to consider local reviews. DEM will also develop fact sheets to describe the process.

He also mentioned the program is in the process of developing a general permit to replace the existing General Permit for Storm Water Discharges Associated with Industrial Activity. The program will develop sector specific Best Management Practices for various industrial categories. The existing General Permit will expire in one year at which time it will be replaced by the Multi-Sector General Permits.

##### **Non-contact Cooling Water**

The RIPDES program has developed a draft general permit for non-contact cooling water to reduce the minor permit backlog and streamline permitting. By definition, non-contact cooling water discharges are not exposed to raw materials, intermediate products, finished products, or process wastes. However, non-contact cooling water is used to remove excess heat, and these discharges may affect the water quality criteria for temperature. Non-contact cooling water discharges require permit limits for pH, temperature, and flow.

#### **E. Redevelopment Of Lands Used Historically For Agricultural Purposes**

Terry Gray said the problem concerns residual contamination on properties that were once used as agricultural properties. In some instances the property may be contaminated with pesticide residues, elevated levels of arsenic and petroleum contamination. DEM has developed language for the contents of a responsible project assessment and for a mechanism for discussing the potential health issue for the future residents who live on the property.

## **F. Providence River Dredging Project Update**

Ron Gagnon mentioned sampling at high tide and low tide met the water quality certification standards. He said the material from the CAD cell is going to upland disposal sites. At this time five marinas have received permits to use the CAD cell. Other marinas are in the process to use this cell. Permits have been applied for that would allow approximately 143,000 cubic yards of material to be disposed in this area.

## **G. UST Stakeholder Process Update**

Ron Gagnon mentioned DEM is receiving approximately \$25,000 in technical support from EPA to begin the UST Environmental Results Program. TehcLaw Inc. is under contract with EPA to provide the following services to Rhode Island:

- Facilitate five Steering Committee meetings,
- Provide written notes from each meeting,
- Develop a Rhode Island draft UST ERP Workbook based on the generic federal workbook,
- Provide recommendations or steps to incorporate the UST ERP into the DEM computer system.

## **H. Environmental Results Program (ERP) Update**

Ron Gagnon provided a brief update of DEM's efforts in developing ERPs within DEM.

### **♦ Autobody Sector**

He mentioned the autobody sector is moving along and the workbooks have been sent out to facilities. He is anticipating a 40% to 50% participation rate of this sector, which translates into about 200 facilities certifying their compliance with the regulations. DEM has conducted forty random inspections of this sector to establish a baseline compliance rate. We are now in the process of inspecting forty other facilities to establish the effectiveness of the program.

### **♦ Drycleaners Sector**

Ron Mentioned that DEM is working with URI to develop a drycleaners ERP. This will be based on the Massachusetts program.

### **♦ Lead Paint Removal**

DEM is working with the Department of Health to develop an ERP in this sector. This program will focus on a self-certification model and DEM will develop Best Management Practices that need to be used by the industry to maintain compliance. DEM will also publish the names of contractors who are certified.

The Director mentioned that many states are moving in the direction of ERPs. Because of this there is a lot a material that can be shared between states and DEM will not have to develop all the material. He also mentioned that EPA is interested in coordinating this information and can be used as a clearinghouse of this information.

Ron also mentioned he is working with the Secretary of State's Office who is developing master permit forms that can be used by companies when they file permits with state agencies. Agencies collect a lot of redundant information and a registry of permits is a more efficient way of collecting this information. The goal is to have the permits on the Internet.

## **I. Future Meeting Topics**

Participants were requested to contact Tom Getz on future meeting topics.

## **J. Future Meetings - August 28, 2003, Dec. 4, 2003**